



IRF 22/996

Gateway determination report – PP-2021-7194

To schedule an additional permitted use on Lots 3 & 4
DP825181, 4 & 4a Bray Street, Coffs Harbour

March 22

Published by NSW Department of Planning and Environment

dpie.nsw.gov.au

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Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Attachment A - Planning Proposal V1
Attachment B – Gateway determination
Attachment C – Letter to Council

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Coffs Harbour
PPA	Coffs Harbour City Council
NAME	Additional Permitted Use on Lots 3 & 4 DP825181, 4 & 4a Bray Street, Coffs Harbour (0 jobs, 0 homes)
NUMBER	PP-2021-7194
LEP TO BE AMENDED	Coffs Harbour LEP 2013
ADDRESS	4 & 4a Bray St, Coffs Harbour
DESCRIPTION	Lots 3 & 4 DP 825181
RECEIVED	17/03/2022
FILE NO.	IRF22/996
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objective of the planning proposal is to amend Coffs Harbour LEP 2013 Schedule 1 – Additional Permitted Uses to permit a ‘pub’ on Lots 3 & 4 DP825181, 4 & 4a Bray Street, Coffs Harbour (Figures 1 & 2).

The purpose of this intended amendment is to facilitate the utilisation of the vacant restaurant building located on Lot 3 DP825181 as a "drive-through bottle shop" and make consequential alterations to the existing ‘Greenhouse Tavern’ that is located on Lot 4. Concept designs for the tavern alteration show an increase in the gaming area which Council has stated that they do not support. The tavern currently operates under existing use rights.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend the Coffs Harbour LEP 2013 per the changes below:

- Amend Schedule 1 relating to Lots 3 & 4 DP825181, 4 & 4a Bray Street, Coffs Harbour to permit a ‘pub’; and
- Amend the Additional Permitted Uses Map (APU_006D) to specify the subject site.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.4 Site description and surrounding area

The land the subject of the planning proposal is described as Lots 3 and 4 DP 825181, 4 & 4a Bray St, Coffs Harbour (Figure 1). The site is located approximately 2km north of the Coffs Harbour CBD on the corner of Bray St and the Pacific Highway. The North West NSW train line is located along the northern boundary of the site.

Lot 3 DP 825181 currently contains a building originally constructed as a single level restaurant. This use is a "restaurant or café" use under CHLEP13 and is currently vacant.

Lot 4 DP 825181 contains the Greenhouse Tavern, a "pub" for the purposes of Coffs Harbour LEP 2013 (CHLEP 2013). The Greenhouse Tavern currently operates under existing use rights pursuant to the Environmental Planning and Assessment Act and Regulations.

Both Lots 3 & 4 are currently listed in Schedule 1 and shown as '3' on the Additional Permitted Uses Map for the purposes of *'Development for the purposes of amusement centres, entertainment facilities and function centres is permitted with development consent.'*

Access to Lots 3 and 4 is gained via a driveway from Bray Street approximately 70 metres west of its intersection with the Pacific Highway and thence via an easement which services adjoining fast food outlets and the Coffs Harbour Regional Conservatorium.

The subject site is zoned B6 Enterprise Corridor under CHLEP 2013 and is surrounded by land zoned B2, Local Centre (Park Beach Plaza) B5 Business Development, R2 Low Density Residential and IN1 General Industrial. The Pacific Highway which is zoned SP2 Infrastructure physically separates the B2 and IN1 zoned land from the subject site (Figure 1).

The site contains no items of heritage significance, is not mapped as containing terrestrial biodiversity, riparian lands, watercourses or within a drinking water catchment.

The site is mapped as containing acid sulfate soils (Figure 3) and is subject to State Environmental Planning (Coastal Management) where it is mapped within the Coastal Use Area (Figure 4).

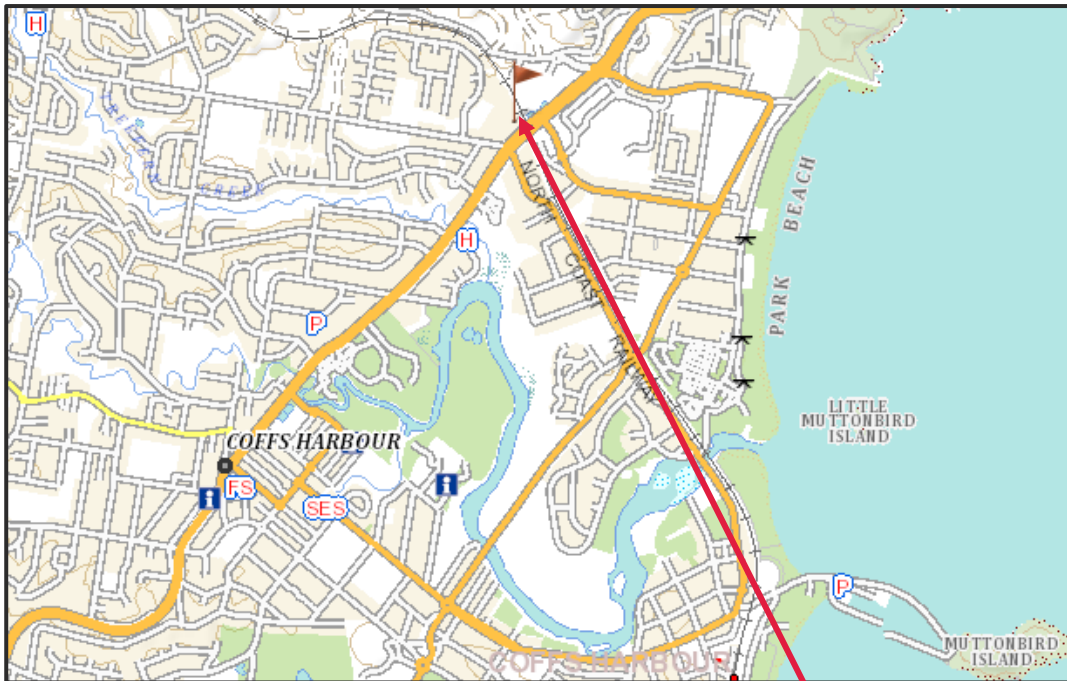


Figure 1 - Site context (source: SIX Maps)

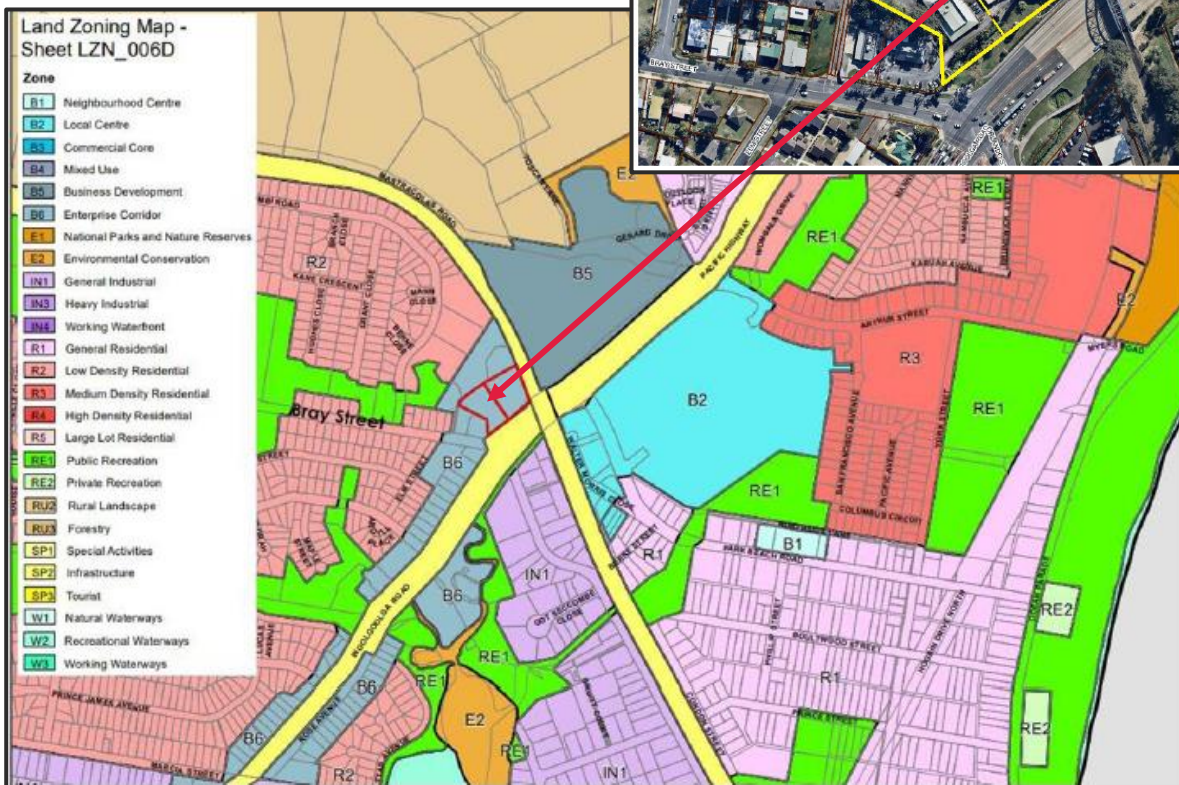


Figure 2 - Site Location and Zoning (source: Planning proposal)

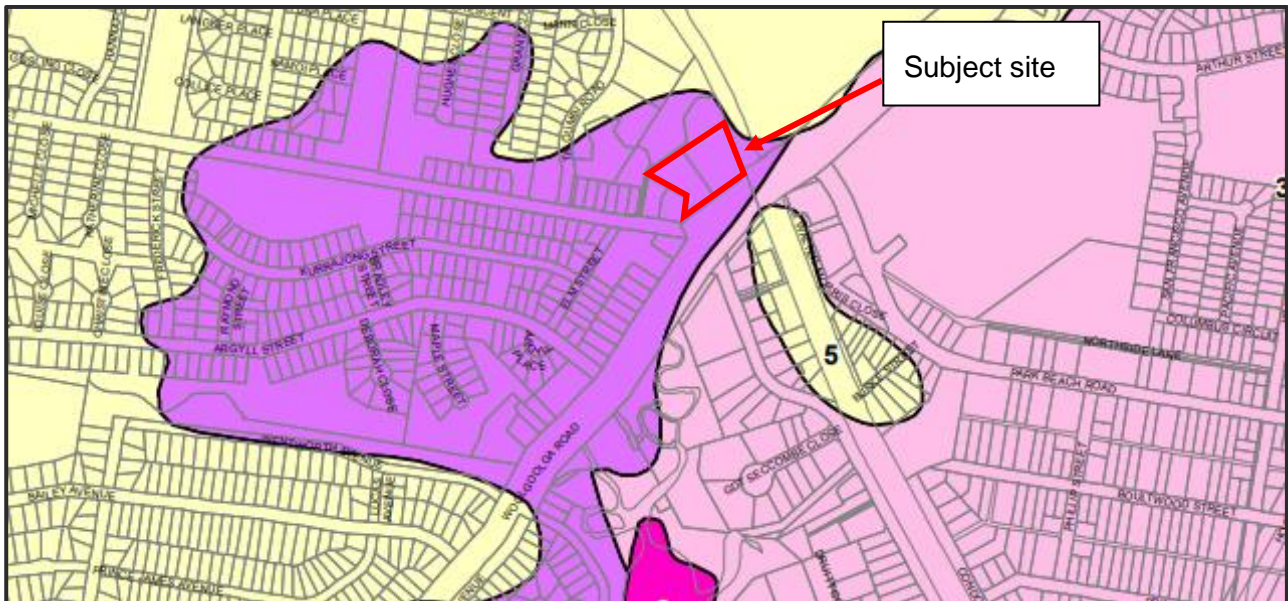


Figure 3 - Acid Sulfate Soils Map ASS_006D (source: CHLEP 2013)



Figure 4 - SEPP (Coastal Management) (Source: Planning proposal)

2 Need for the planning proposal

The Planning proposal is a proponent-initiated application.

The purpose of the Planning proposal is to amend CHLEP 2013 to enable the utilisation of a disused restaurant building located on Lot 3 DP825181 as a drive-through bottle shop and make alterations to the existing tavern located on adjoining Lot 4 DP 825181.

The Tavern on Lot 4 seeks extensive alterations and additions and the movement of the existing 'drive-through' retail liquor store currently attached to the tavern into the building on Lot 3. This is currently prohibited under the LEP with the tavern currently operating under 'existing use rights'.

Both Lots 3 & 4 are currently listed in Schedule 1 and shown as '3' on the Additional Permitted Uses Map for the purposes of *'Development for the purposes of amusement centres, entertainment facilities and function centres is permitted with development consent.'*

In order to facilitate the proposed alterations to the tavern and to utilise the existing unused building for an ancillary bottle-shop (which are considered to be suitable for the subject site), an addition to the permissible use for Lots 3 & 4, DP 825181, 4/4A Bray Street, Coffs Harbour as contained within Schedule 1 of Coffs Harbour LEP 2013 is the most acceptable solution. The other alternative, to rezone the land has the potential for future undesirable land uses which may detract from other nearby employment centres. An additional permitted use of 'pub' ensures the future works it would permit are specific to what currently exists on the subject site and for the unused building on Lot 3 to be used only for the purposes of a bottle-shop.

It is not intended to amend any of the development standards that currently apply to the subject site.

3 Strategic assessment

3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the Northern Regional Plan 2036 (NCRP). Council considers that the proposal is consistent with the relevant Goals, Directions and Actions of the NCRP. Specific relevant Directions and Actions are discussed below.

Table 3 - Regional Plan assessment

Regional Plan Objectives	Justification
Local Government Narrative	The proposal is consistent with the relevant Local Government Narratives for Coffs Harbour which are to manage and support growth in Coffs Harbour and protect environmental assets.
Direction 1 – Deliver environmentally sustainable growth	Action 1.1 – Focus future development to mapped urban growth areas. The Planning proposal aims to enable the revitalisation of an existing, gateway development located within an established commercial/retail precinct.

Direction 6 – Deliver successful centres of employment	<p>Action 6.4 Focus retail and commercial activities in existing centres and develop place-making focused planning strategies for centres.</p> <p>Action 6.5 – Promote and enable an appropriate mix of land uses and prevent encroachment of sensitive uses on employment land through local planning controls.</p> <p>The Planning proposal will assist in enabling Council to consider the intensification of an existing use that is located within an existing commercial/retail precinct.</p>
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3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

Table 4 - Local strategic planning assessment

Local Strategies	Justification
Local Strategic Planning Statement	<p>Coffs Harbour City Council adopted its Local Strategic Planning Statement (“LSPS”) on 25 June 2020. It identifies 16 Planning Priorities to be delivered in four themes to 2040: connected, sustainable, thriving and leadership.</p> <p>This planning proposal is considered to be consistent with the Themes and Planning Priorities of Council’s LSPS, in particular, it will assist in delivering the following Planning Priority:</p> <p>PP 9 - Deliver a Local Centres placemaking approach to revitalise local centres</p>
Coffs Harbour Regional City Action Plan 2036 (RCAP)	<p>The purpose of the Coffs Harbour RCAP is to provide a framework to manage and shape the city's future growth in accordance with the requirements of the NCRP 2036.</p> <p>The Coffs Harbour RCAP was finalised in March 2021 and identifies 5 overarching goals and related objectives and actions. This planning proposal is considered to be consistent with the objectives and actions of the Plan.</p>
Coffs Harbour Local Growth Management Strategy (LGMS)	<p>The Planning proposal is considered to be consistent with the LGMS in particular, a need to improve the night-time economy as a way of revitalising the city centre.</p>
Community Strategic Plan	<p>The planning proposal is consistent with the Community Strategic Plan (CSP) and specifically aligns with the following objective:</p> <p>A thriving and sustainable local economy</p> <ul style="list-style-type: none"> • B1.1 We champion business, events, innovation and technology to stimulate economic growth, investment and local jobs; and • B1.2 We attract people to work, live and visit in the Coffs Harbour local government area

3.3 Section 9.1 Ministerial Directions

The Planning proposal's consistency with relevant section 9.1 Directions is discussed in the table below. Prior to community consultation however, the Planning proposal is to be amended to reference the updated s9.1 Ministerial Directions that commenced on 1 March 2022.

Table 5 - 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
4.1 Flooding	Inconsistent - Justified	<p>The Planning proposal is inconsistent with this Direction as the subject site is located within a flood planning area and is subject to a 100 year Average Recurrence Interval (ARI) flood extent and the proposal has not included appropriate provisions as specified in the Direction.</p> <p>The inconsistency with this Direction is considered to be of minor significance as the Planning proposal will enable Council to consider alterations to existing buildings which will result in minimal intensification of land use.</p> <p>Whilst Council's LEP has adequate provisions that enable flooding issues to be appropriately assessed at the Development Application stage, it is also considered appropriate that DPE's Division of Biodiversity and Conservation be consulted on the proposal.</p>
4.2 Coastal Management	Inconsistent - Justified	<p>The proposal is inconsistent with this Direction as it affects land that is in a coastal zone and does not include provisions which give effect to the objectives of the Coastal Management Act 2016, the NSW Coastal Management Manual, the NSW Coastal Design Guidelines 2003 and any coastal management program or coastal zone management plan that applies to the land.</p> <p>The inconsistency is considered to be of minor significance as the planning proposal will not rezone or alter the development standards that apply to the land identified in the planning proposal but rather enable Council to consider a reconfiguration of an existing development on the site.</p>

3.4 State environmental planning policies (SEPPs)

The planning proposal is considered to be consistent with all relevant SEPPs as discussed in the table below. Prior to community consultation however, the Planning proposal is to be amended to reference the updated consolidated SEPP's that commenced on 1 March 2022.

Table 6 - Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
Resilience and Hazards 2021- (SEPP Coastal Management 2018)	<p>The aim of this Policy is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the <i>Coastal Management Act 2016</i>, including the management objectives for each coastal management area, by—</p> <ul style="list-style-type: none"> a) managing development in the coastal zone and protecting the environmental assets of the coast, and b) establishing a framework for land use planning to guide decision-making in the coastal zone, and <p>mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the <i>Coastal Management Act 2016</i>.</p>	Yes	<p>The Planning proposal aims to amend CHLEP 2013 Schedule 1 Additional Permitted Uses to permit a 'pub' on the subject land.</p> <p>The subject land currently contains existing structures that have been used for commercial/retail purposes under Schedule 1 and existing use rights for many years. The Planning proposal will simply enable Council to consider a development application for alteration works to the site. No additional impact to the Coastal Zone is expected because of this proposal.</p> <p>The Planning proposal is considered to be consistent with this SEPP</p>

4 Site-specific assessment

4.1 Environmental

It is not anticipated that the Planning proposal will result in any detrimental environmental impacts particularly on threatened species, populations or ecological communities as the land the subject of the planning proposal has been developed for some decades for commercial/retail purposes. Specific issues that will require further assessment at the Development Application stage have been addressed below.

Table 7 –Environmental Impact Assessment

Environmental Impact	Assessment
Acid Sulfate Soils	<p>The subject site is mapped as containing Class 4 Acid Sulfate Soils (likely to be found beyond 2 metres below the natural ground surface).</p> <p>It considered that CHLEP 2013 contains adequate provisions to ensure that this issue can be appropriately addressed at the Development Application stage.</p>
Flooding	<p>The subject site (including the access road to the tavern) is located within a flood planning area and is subject to a 100year Average Recurrence Interval (ARI) flood extent.</p> <p>The Planning proposal has not addressed the issue of flooding but accompanying Pre-lodgement Meeting Notes with Council have highlighted the following in regard to flood implications:</p> <ul style="list-style-type: none"> • As the buildings are existing there is no concern of impacting existing flood behaviour; • Whilst the change of use may not add a large volume of additional thoroughfare there still exists some risk of vehicles being trapped by floodwater as a Northern Tributary of Coffs Creek traverses the access road; and • It is considered that any potential increase in flood risk (expected to be insignificant) could be appropriately addressed at the development Application stage. <p>It is recommended that consultation with the Biodiversity and Conservation Division of DPE be undertaken however to further assess the issue of flooding.</p>
Traffic	<p>The Planning proposal is accompanied by a Traffic Assessment which has concluded that:</p> <ul style="list-style-type: none"> • The proposal includes the provision of 143 car parking spaces within an existing carpark, satisfying the relevant controls applicable and anticipated 85th percentile parking demand of the site; • Council's DCP does not require the provision of bicycle and motorcycle parking facilities; • The parking areas of the site are an existing and approved car parking layout and

	<ul style="list-style-type: none"> The additional traffic generation of the proposed development has been estimated to be some 95 trips in the Friday PM peak period (47 in, 48 out) and 81 trips in the Saturday peak period (40 in, 41 out). The impacts of the traffic generation have been modelled using SIDRA INTERSECTION 9.0, indicating that there will be no detrimental impact to the performance of the intersections as a result of the generated traffic. <p>Whilst Council do not expected to be any discernible impact on the adjoining Pacific Highway intersection, it is recommended that consultation be undertaken with Transport for NSW.</p>
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4.2 Social and economic

It is anticipated that the Planning proposal will have a positive social and economic impact through the revitalisation of a prominent precinct gateway structure that has been vacant for some time.

It is anticipated that social and economic benefits will be achieved through the creation of additional jobs at both the construction and operational stage of the proposed development as well as the potential to inject life back into the high-time economy through the revitalisation of the existing structure/precinct.

4.3 Infrastructure

The subject site has been developed and used for commercial purposes for several decades. The proposed reconfiguration and revitalisation of the existing building is not expected to create the need for additional local or state infrastructure as addressed below.

Table 8 - Infrastructure assessment

Infrastructure	Assessment
Local	Any site specific local infrastructure requirements will be identified at the development application stage.
State	There will be no impact on State or regional infrastructure or the requirement for additional funding.

5 Consultation

5.1 Community

Whilst Council acknowledges that the Gateway determination will specify the community consultation requirements that must be undertaken for the planning proposal, it considers that the Planning proposal should be exhibited for a period of 28 days.

In accordance with the Local Environmental Plan Making Guideline dated December 2021, an exhibition period of 20 working days is recommended.

Public Exhibition of the planning proposal will include the following placement of an online advertisement in the Coffs Newsroom, written consultation with affected owners and adjoining landowners as well as notification on Council's 'Have Your Say Website'.

5.2 Agencies

The proposal does not specifically raise which agencies will be consulted.

It is recommended the following agencies be consulted on the planning proposal and given 30 working days to comment:

- Transport for New South Wales (TfNSW)
- Biodiversity and Conservation Division (BCD)

6 Timeframe

Council proposes a 5 month time frame to complete the LEP. In accordance with the LEP Making Guidelines the benchmark timeframe for a standard planning proposal is 225 working days.

The Department recommends a time frame of 6 months (128 working days) to ensure there is sufficient time to complete the LEP and it is completed in line with its commitment to reduce processing times.

A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

As the site/planning proposal relates to local planning matters the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- It is not inconsistent with the North Coast Regional Plan;
- It will assist in delivering related Planning Priorities and Actions in Council's Local Strategic Planning Statement and Regional City Action Plan; and
- It will help to revitalise a disused building in a prominent highway location and assist in revitalising the night-time economy within the subject precinct.

As discussed in the previous sections 4 and 5, the proposal must be updated before consultation to:

- reference current section 9.1 Ministerial Directions that commenced on 1 March 2022; and
- reference the consolidated SEPPS that commenced on 1 March 2022.

9 Recommendation


It is recommended the delegate of the Secretary:

- **Agree** that any inconsistencies with section 9.1 Directions 4.1 Flooding and 4.2 Coastal Management are minor or justified.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Prior to community consultation, the planning proposal is to be updated to:

- reference the updated section 9.1 Ministerial Directions; and
 - reference the new consolidated SEPPs.
2. Consultation is required with the following public authorities:
 - Transport for NSW (TfNSW)
 - DPE Division of Biodiversity and Conservation (BCD)
 3. The planning proposal should be made available for community consultation for a minimum of 20 working days.
 4. The planning proposal must be exhibited one month from the date of the Gateway determination.
 5. The planning proposal must be reported to council for a final recommendation no later than four months from the date of the Gateway determination.
 6. The timeframe for completing the LEP is to be six months from the date of the Gateway determination.
 7. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



13/04/2022

(Signature)_____
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22/4/2022

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